

**IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

<b>CYNTHIA GEIGER,</b>	)	
	)	
<b>PLAINTIFF</b>	)	
	)	
<b>V.</b>	)	<b>CASE NO. 3:06cv194-WHA</b>
	)	
	)	
<b>RYAN FULLER SMALLWOOD,</b>	)	
	)	
<b>DEFENDANT.</b>	)	

**ORDER ON PRETRIAL HEARING**

A pretrial hearing was held in this case on April 5, 2007, wherein the following proceedings were held and actions taken:

1. PARTIES and TRIAL COUNSEL: Plaintiff: Cynthia Geiger, Defendant: Ryan Smallwood. Attorney for Plaintiff: Benjamin H. Parr and Attorney for Defendant: Stanley A. Martin. Counsel appearing at pretrial hearing are the same as Trial Counsel.
2. Jurisdiction and Venue: Jurisdiction is proper as the Defendant is a resident of Georgia, the Plaintiff is a resident of Alabama, and the amount in controversy exceeds \$75,000.00. Venue is proper.
3. Pleadings: The following pleadings and amendments were allowed: The Complaint of Cynthia Geiger and the Answer of Defendant Ryan Fuller Smallwood, with no amendments.
4. Contentions of the parties:
  - a. The Plaintiff contends that:
    - i. On or about 24 September 2004, The Plaintiff was traveling on US 431, when the Defendant negligently turned in front of her, causing a collision.
    - ii. Defendant had a duty to operate his vehicle with care.
    - iii. Defendant breached his duty.
    - iv. As a proximate result of Defendant's negligence, Plaintiff's neck was injured.

- v. Though the Plaintiff did have neck surgery in 1989, she had had no problems with her neck in the intervening 15 years. She began experiencing problems again after the accident.
  - vi. Plaintiff incurred medical bills for the treatment of her injuries, and the medical bills were reasonable and necessary. Though the doctor testified the amounts were high, he indicated that many hospitals charged more.
  - vii. Plaintiff has experienced pain and suffering and mental anguish due to Defendant's negligence.
- b. The Defendant contends that:
- i. This case arises out of a motor vehicle accident on September 24, 2004 around 8:02 a.m. on U.S. Highway 431 at or near its intersection with College Drive in Phenix City, Russell County, Alabama.
  - ii. The Defendant Ryan Fuller Smallwood, hereinafter Smallwood, was traveling southbound on U.S. Highway 431 North. The Plaintiff Cynthia Geiger, hereinafter Geiger, was traveling northbound on U.S. Highway 431 North in the outside lane of traffic.
  - iii. Smallwood was attempting to turn left onto College Drive when his vehicle stalled, and the impact occurred with the Geiger vehicle.
  - iv. Smallwood denies any negligence or wantonness on the occasion complained of.
  - v. Smallwood further denies Geiger's alleged injuries and damages.
  - vi. Smallwood alleges that Geiger's negligence on the occasion complained of proximately caused or contributed to her injuries and damages.
  - vii. Geiger had previous neck surgery on October 10, 1989 performed by Dr. William E. Adams at C5-6. (p. 11 of Dr. Adams' deposition).
  - ix. Dr. Adams has testified by deposition as follows:
    - a. Geiger has multiple level degenerative disc disease or spondylosis in her cervical spine. (p. 14)
    - b. The stenosis and a white spot on her spinal cord, as shown on the MRI, were caused by spondylosis. (pp. 14, 21-22)
    - c. Any continuing neck pain experienced by Ms. Geiger is from her continuing degenerative problems. (p. 31)
    - d. Geiger's cervical degenerative disc disease had been going on over a period of years before the accident in this case. (pp. 33-34)
    - e. The osteophytes in Geiger's neck were there before this accident. (p. 36)
    - f. Dr. Adams did neck surgery on Geiger at C3-4 on January 27, 2005. (p. 15, 37) The surgery removed the osteophyte

and the osteophytic ridge, both of which had been there for years and neither of which had anything to do with this accident on September 24, 2004. (pp. 37-38)

- g. Geiger's hospital bill for the surgery was too high. BlueCross/BlueShield of Georgia paid the bill. (p. 38)
- h. Geiger was "doing great, her examination was normal, and she could return to work," according to Dr. Adams, as of her last visit on February 21, 2005, which was the last time he saw Geiger. (p. 40)
- i. Geiger has not proved that her medical treatment and surgery, as well as her bills, on January 27, 2005 were caused by this accident on September 24, 2004.

5. Stipulations between the parties:

- a. The parties are properly named.
  - b. Jurisdiction and venue are proper.
  - c. The case arises out of a motor vehicle accident on U.S. Highway 431 in Russell County, Alabama, on or about 24 September 2004.
  - d. Defendant Ryan Smallwood was operating one vehicle involved in the accident, and Plaintiff Cynthia Geiger was operating the other vehicle.
6. The Plaintiff shall file a trial brief with the Court on or before 4/23/07.  
The Defendant shall file a trial brief with the Court on or before 4/30/07
7. A trial docket will be mailed to counsel approximately one month prior to a trial term. **If a Jury Trial:** the parties shall file any requested voir dire questions, motions in limine, fully briefed, and proposed jury instructions, together with citation of law thereon, on or before two weeks prior to the date shown on the docket for jury selection, unless said time is shortened by the Court on motion of either party.
8. Each party shall have available at the time of trial, for use by the Court, two copies of the list of the party's exhibits and two extra copies of each photostatically reproducible exhibit.
9. It is ORDERED by this Court that all of the above named allowances and agreements be, and the same are hereby, binding upon all parties in the above styled cause unless this Order be hereafter modified by Order of the Court.

Done this 5th day of April, 2007.



W. HAROLD ALBRITTON  
SENIOR UNITED STATES DISTRICT JUDGE